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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,186	12/27/2000	Masahiro Yoshiasa	14194	6162
23389	7590	11/19/2004	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA GARDEN CITY, NY 11530			LAZARO, DAVID R	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/749,186

Applicant(s)

YOSHIASA, MASAHIRO

Examiner

David Lazaro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,7 and 9 is/are rejected.
- 7) ☒ Claim(s) 2,4,6,8 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/19/04 zel</u>   | 6) <input type="checkbox"/> Other: _____                                    |

### **Response to Amendment**

1. This Office Action is in response to the amendment filed 08/23/04.
2. The objection to the Title of the invention is withdrawn.
3. The amended abstract and Substitute specification is accepted by the examiner.
4. The rejection of claims 1-10 under 35 USC §112, second paragraph, are withdrawn.
5. Arguments filed 08/23/04 for Claims 1, 3, 5, 7 and 9 have been considered but are not persuasive. The previous rejection of these claims under 35 USC §102 still stand.
6. Arguments filed 08/23/04 for Claims 2, 4, 6, 8 and 10 have been considered and are persuasive. See 'Allowable Subject Matter'.
7. The IDS submitted 04/19/04 has been considered by the examiner.

### ***Claim Objections***

8. Claim 3 is still objected to because of the following informalities: In lines 2-3, 'acquisition request accepting means for accepting an acquisition request for content' should just be 'accepting an acquisition request for content' to be a proper step of a method. Appropriate correction is required.
9. Claims 3 and 5 are objected to because of the following informalities: In the last lines, "cache means" should just be "cache". Appropriate correction is required.

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9. Claims 4 and 6 are objected to because of the following informalities: In the last lines, "cache section" should just be "cache". Appropriate correction is required.

10. Claim 10 is objected to because of the following informalities: In the last lines, "cache section" should just be "cache means". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1, 3, 5, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,038,601 by Lambert et al. (Lambert).

13. With respect to Claim 1, Lambert teaches a content acquiring device (Col. 4 lines 13-23) comprising: cache means for temporarily storing received content (Col. 5 lines 11-14 and Col. 6 lines 25-32); acquisition request accepting means for accepting an acquisition request for content (Col. 5 lines 51-66); cache deciding means for deciding whether or not the content requested by the acquisition request is stored in the cache means (Col. 12 lines 38-48); validity expiration setting means for setting a validity expiration as an update expiration of the content based on a validity term of the content

when it is decided by the cache deciding means that the content is stored in the cache means (Col. 12 lines 49-64); acquisition request transmitting means for transmitting the acquisition request for the content when the content is past the validity expiration set by the validity expiration setting means (Col. 12 lines 49-53); and content receiving means for receiving content based on the acquisition request transmitted from the acquisition request transmitting means (Col. 12 lines 38-43), wherein if a control section determines that the content is received normally by the content receiving means, the control section updates with the content received the cache means (Col. 12 lines 38-48).

14. With respect to Claim 3, Lambert teaches a method of acquiring content comprising the steps of: acquisition request accepting means for accepting an acquisition request for content (Col. 5 lines 51-66); deciding whether or not the content requested by the acquisition request accepted at the acquisition request accepting step is stored in a cache for temporarily storing received content (Col. 12 lines 38-48); setting a validity expiration as an update expiration of the content based on a validity term added to the content when it is decided at the cache deciding step that the content is stored in the cache (Col. 12 lines 49-64); transmitting the acquisition request for the content when the content has passed the validity expiration set at the validity expiration setting step (Col. 12 lines 49-53); and receiving content corresponding to the acquisition request transmitted at the acquisition request transmitting step (Col. 12 lines 38-43), wherein if a control section determines that the content is received normally by the content receiving means, the control section updates with the content received the cache means (Col. 12 lines 38-48).

15. With respect to Claim 5, Lambert teaches a content server (Col. 6 lines 56-63) comprising: content storing means for previously storing content (Col. 6 lines 56-63); acquisition request receiving means for receiving an acquisition request transmitted when the content has passed a validity expiration serving as an update expiration of the content stored in a cache, which validity expiration is set based on a validity term of the content (Col. 12 lines 49-53); and content transmitting means for fetching the content requested by the acquisition request received by the acquisition request receiving means from the content storing means and for transmitting the content to a destination of the acquisition request (Col. 12 lines 49-53), wherein if a control section determines that the content is received normally by the content receiving means, the control section updates with the content received the cache means (Col. 12 lines 38-48).

16. With respect to Claim 7, Lambert teaches a content acquiring system (Col. 5 lines 9-19) comprising: a content acquiring device for transmitting via a network an acquisition request for content that is an acquisition request object prestored (Col. 5 lines 20-26 and lines 49-60) when the content has passed a validity expiration serving as an update expiration of the content set based on a validity term of the content and for receiving content corresponding thereto (Col. 12 lines 38-53); and a content server (Col. 6 lines 56-63) for reading content corresponding to an acquisition request transmitted from the content acquiring device from content in various fields which are prestored (Col. 12 lines 38-53); and for transmitting via the network the content corresponding to the acquisition request to the content acquiring device (Col. 12 lines 38-53), wherein if a control section determines that the content is received normally by the content receiving

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means, the control section updates with the content received the cache means (Col. 12 lines 38-48).

17. With respect to Claim 9, Lambert teaches a content acquiring system (Col. 5 lines 9-19) comprising: a content acquiring device including cache means for temporarily storing received content (Col. 5 lines 9-18), acquisition request accepting means for accepting an acquisition request for content (Col. 5 lines 51-66), cache deciding means for deciding whether or not the content requested by the acquisition request are stored in the cache means (Col. 12 lines 38-48), validity expiration setting means for setting a validity expiration as an update expiration of the content based on a validity term added to the content when it is decided by the cache deciding means that the content is stored in the cache means (Col. 12 lines 49-64), acquisition request transmitting means for transmitting the acquisition request for the content when the content have passed the validity expiration set by the validity expiration setting means (Col. 12 lines 49-53), and content receiving means for receiving content based on the acquisition request transmitted from the acquisition request transmitting means (Col. 12 lines 38-53); and a content server including content storing means for previously storing content (Col. 6 lines 56-63), acquisition request receiving means for receiving an acquisition request transmitted from the acquisition request transmitting means (Col. 5 lines 48-60), and content transmitting means for fetching the content requested by the acquisition request received by the acquisition request receiving means from the content storing means and for transmitting the content to the content acquiring device (Col. 12 lines 49-53), wherein if a control section determines that the content is received

normally by the content receiving means, the control section updates with the content received the cache means (Col. 12 lines 38-48).

### ***Allowable Subject Matter***

18. Claims 2, 4, 6, 8 and 10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

19. Applicant's arguments filed 08/23/04 concerning Claims 1, 3, 5, 7 and 9 have been fully considered but they are not persuasive.

20. Applicant argues - "*Independent claims 1, 3, 5, 7 and 9 require, inter alia, that if it is determined that the content is received normally, the cache means are updated with the content received.... Lambert does not disclose or suggest the cited features.*"

a. Applicant makes reference to the newly added limitation concerning the cache being updated when content is received normally. Lambert also clearly teaches this limitation in Col. 12 lines 38-48 which states "whenever the caching server is asked to retrieve content from the web, the caching server places the content in local storage while returning the content to the requestor". The examiner notes that this limitation would be present in any content retrieval system that makes use of a cache as this is part of the fundamental operations of a cache.



**Conclusion**

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

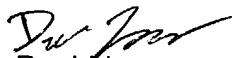
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David Lazaro  
November 10, 2004

  
HOSAIN ALAM  
SUPERVISORY PATENT EXAMINER